IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

TOOR OLL AGAR MERCARO	,	
JOSE SALAZAR MERCADO,)	FILED S
Plaintiff,)	DEC 3 0 2013
v.)) 1:13CV1138	Clerk U.S. District Court By ON THIS OFFICE Green Stope, NC
UNITED STATES OF AMERICA,)	1911191
Defendant(s).)	

ORDER AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

Plaintiff, a federal prisoner, submitted a Motion for Return of Property pursuant to Fed. R. Crim. P. 41(g), along with an application to proceed *in forma pauperis*. However, Plaintiff already filed a similar Motion in case 1:13CV335. The Court allowed that case to proceed, but ordered that Plaintiff make an initial partial payment, which he did. The Court then sent him summonses for him to complete and return to the Court. To date, he has not returned those summonses.¹ Nevertheless, the earlier case currently remains pending and Plaintiff's current submission is duplicative of that case.² Therefore, rather than assessing another filing fee and allowing the current case to proceed, the Court will dismiss it without prejudice to Plaintiff pursuing the earlier case.

¹A separate Recommendation will be entered in the earlier case addressing the failure to return the summonses.

² It does not appear that Plaintiff intends to amend the earlier case. However, if he does, he should make that clear in any future filing.

In forma pauperis status is granted for the sole purpose of entering this Order and Recommendation.

IT IS THEREFORE ORDERED that *in forma pauperis* status is granted for the sole purpose of entering this Order.

IT IS RECOMMENDED that this action be filed and dismissed *sua sponte* without prejudice to Plaintiff pursuing his claims in case 1:13CV335.

This, the 30 day of December, 2013.

L. Patrick Auld

United States Magistrate Judge